

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JOHNNY SATURN,	§	
	§	
Plaintiff,	§	
vs.	§	No. 1:20-CV-01176-LY-SH
	§	
	§	
AUSTIN BERGSTROM INTERNATIONAL	§	
AIRPORT (A.B.I.A.), <i>et al.</i>	§	
	§	
Defendants.	§	

**DEFENDANT BAE SYSTEMS, INC.’S MOTION TO DISMISS
FIRST AMENDED COMPLAINT UNDER RULE 12(b)(6)**

Defendant BAE Systems, Inc. files this Motion to Dismiss Plaintiff’s First Amended Complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6).

**SUMMARY OF ARGUMENT:
THE COMPLAINT CONTAINS NO ALLEGATIONS ABOUT BAE SYSTEMS**

Plaintiff’s Complaint should be dismissed for failing to state a claim against BAE Systems. The Complaint never mentions BAE Systems anywhere other than in the caption of the case. The body of the Complaint does not identify BAE Systems as a defendant or allege a single act or omission by BAE Systems. Nor does the Complaint allege any connection between BAE Systems and any alleged acts or omissions by other defendants. The Complaint lists Defamation, Invasion of Privacy, Conspiracy, False Light, and Libel as causes of action—but again, merely recites these claims with no factual support and no connection to any alleged act or omission by BAE Systems. As such, all claims against BAE Systems must be dismissed under Rule 12(b)(6).

LEGAL STANDARD AND ARGUMENT:

Rule 12(b)(6) requires dismissal of a complaint where a plaintiff fails “to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). “To survive a motion to dismiss, a complaint

must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556). A pleading falls short of the plausibility standard when it “offers labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action’” or “if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (quoting *Twombly*, 550 U.S. at 555, 557) (alteration in original). When a plaintiff “ha[s] not nudged [his] claims across the line from conceivable to plausible, [his] complaint must be dismissed.” *Twombly*, 550 U.S. at 570.

Here, the Complaint clearly fails to state any claim against BAE Systems because it does not contain any allegations about BAE Systems—nor does it or make any attempt to allege a connection between BAE Systems and the case. *See* ECF No. 3 (Pl.’s Am. Compl.). Despite naming BAE Systems in the Complaint’s caption, Plaintiff does not mention BAE Systems in the body of the pleading nor identify any acts or omissions committed by BAE Systems. *See id.* Therefore, the Complaint fails to state a claim and BAE Systems should be dismissed. Simply reciting the elements of causes of action is insufficient. *See Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555, 557). Further, Plaintiff violated Rule 8(a) by employing “group pleading,” by failing to make necessary distinctions among defendants, and by failing to include sufficient factual allegations that BAE Systems participated in any actionable conduct. There is no notice to BAE Systems of the alleged claim or grounds on which it rests, and no factual allegation to plausibly support any claim. Dismissal must be granted. *Id.*

CONCLUSION

BAE Systems respectfully requests that this motion be granted, that it be dismissed from this case with prejudice, and granted all such other and further relief to which it may be justly entitled.

Respectfully Submitted,

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ATTORNEY FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of February 2021, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District Court, Western District of Texas, using the CM/ECF system, which will send notification of such filing to all counsel of record. I also certify that I provided further service as follows:

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